

Translation

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 0000054289	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/000776	International filing date (day/month/year) 29.01.2004	Priority date (day/month/year) 18.02.2003	
International Patent Classification (IPC) or national classification and IPC D06M 15/00, 15/227, 15/233, 15/263, 15/333, 15/33, 15/256, 15/277, 11/79, 11/36, 11/45			
Applicant BASF AKTIENGESELLSCHAFT			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>8</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>3</u> sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																								
<p>4. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/000776

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

the international application as originally filed/furnished
 the description:
 pages 1-18 as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

the claims:
 nos. _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* 1-12 received by this Authority on 05.01.2005 with letter of 04.01-2005
 nos.* _____ received by this Authority on _____

the drawings:
 sheets _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
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1. Statement

Novelty (N)	Claims	1-12	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-12	NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

Reference is made to the following documents:

D1: WO 01/75216 A
 D2: EP-A-1 283 296
 D3: US-A-3 940 359
 D4: WO 97/00995 A
 D5: EP-A-0 666 349.

1. The present application relates to a method for finishing textile materials by treating them with an aqueous liquor that contains the components set out in claim 1.

Since none of the documents cited in the search report or in the present application describes an aqueous liquor that contains all the components given in claim 1, or in claim 8 and claims 10 to 12, the newly submitted claims appear to satisfy the requirements of PCT Article 33(2).

2. Document D2 describes the treatment of textile materials with an aqueous composition that contains solids and organic polymers and also,

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

optionally, adjuvants. The finishing treatment yields textiles with reduced rates of soiling rates and a good self-cleaning effect, said properties being maintained even under mechanical stress (see D2, page 3, lines 10-12). Emulsifiers, *inter alia*, are used as adjuvants (see D2, page 10 [0061]).

In contrast to the present application, the claimed copolymers are not used in D2.

3. Document D1, cited in the present application, can be considered to be the closest prior art; said document discloses a finishing method for providing textile materials with dirt- and water-repellent finishes, according to which method the materials are treated with finishing liquors, said liquors also containing organic polymers and inorganic particulate solids, as per the present application. In contrast to the present invention, the examples in document D1 use finishing liquors that contain a maximum of 5g/l of inorganic solids. However, neither the claims nor the description of D1 contain anything to suggest a maximum recommended content. Therefore, proceeding from D1, a person skilled in the art has no preconception to overcome with regard to the use of greater amounts of solids. As can be derived from documents D2 to D5, the use of greater amounts of solids is entirely conventional

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

and gives rise to materials that display a satisfactory degree of stability under mechanical stress. For a person skilled in the art who wishes to address the problem (see the application, page 2, paragraph 4) of developing a method for solving precisely the aforementioned problem, increasing the solids content was an obvious step.

In consequence, said measure cannot be considered to involve an inventive step. However, the feature whereby a specific emulsifying agent is used as per the present claims cannot be considered to involve an inventive step either. As stated above, for a person skilled in the art it was general knowledge to add emulsifying agents to finishing systems of the type in question. In the present instance, the restriction *per se* to a specific emulsifying agent cannot form the basis of an inventive step unless an effect is demonstrated. Yet, no such effect (or indeed any other effect) is indicated in the present application.

The subject matter of independent claims 1 and 7 to 12 therefore fails to meet the requirements of PCT Article 33(3).

Dependent claims 2 to 6 contain no features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for inventive step (see the cited documents).

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

The description is not consistent with the claims (PCT Rule 5.1(a) (iii)).

The emulsifying agents selected in the new claim 1 are copolymers of ethylene and of at least one α, β unsaturated carboxylic acid whereas α, β unsaturated monocarboxylic acid or dicarboxylic acid were used in the application as originally filed (PCT Article 19(2)).

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. The application fails to meet the requirements of PCT Article 6 because claims 1, 7, 8, 9, 10, 11 and 12 lack clarity.
- 1.1 In claims 1, 8, 10, 11 and 12, the expression "organic polymer" is vague and, in so far as it also encompasses the emulsifying agent of which the use is likewise essential, said expression lacks clarity, leaving the reader uncertain as to the meaning of the technical feature in question. As a result, the subject matter of said claims is not clearly defined (PCT Article 6).
- 1.2 Claim 1 claims a method for finishing textile materials, according to which method the material is treated with an aqueous liquor as per claim 8. Claim 9 claims the use of aqueous liquors as per claim 8 for finishing textile materials. The applicant is invited to clarify the difference between claims 1 and 9 (PCT Article 6).
- 1.3 In claim 11, the reference back to the production of aqueous liquors according to claim 10 is incorrect (PCT Article 6).
- 1.4 The textile material according to claim 7 is also defined in terms of the method according to claims 1 to 5, not in terms of product features.

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Box No. VIII Certain observations on the international application

Therefore, contrary to the requirements of PCT Article 6, the intended restrictions cannot be clearly derived from said claim.